

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JULIO E. RIVERA ILARRAZA,

Plaintiff,

v.

**SUPERINTENDENT KERESTES, et
al.,**

Defendants.

:
:
:
:
:
:
:
:
:
:

Civ. No. 1:15-cv-2257

Judge Rambo

Magistrate Judge Saporito

ORDER

Before the court is a September 1, 2016 report and recommendation (Doc. 50) of the magistrate judge in which he recommends that the action be dismissed without prejudice on the basis of Plaintiff's failure to file an amended complaint within the time allotted by the court.

Upon consideration of the record before the court and the applicable law,

IT IS HEREBY ORDERED THAT:

- 1) The report and recommendation (Doc. 50) of the magistrate judge is **ADOPTED IN PART AND DENIED IN PART**;
- 2) The captioned action is **DISMISSED WITH PREJUDICE** for Plaintiff's failure to file an amended complaint and failure to prosecute;
- 3) The clerk of court is directed to close this case; and
- 4) Any appeal take from this order is deemed frivolous and not taken in good faith.

s/Sylvia H. Rambo

SYLVIA H. RAMBO

United States District Judge

Dated: September 7, 2016